

**REMARKS**

Claims 1-2 and 4 are pending in the application. Claim 1 is herein amended. No new matter has been presented.

**Rejection under 35 USC §103(a)**

**Claims 1, 2 and 4 were rejected under 35 U.S.C. 103(a) as being obvious over Baiker et al. (U.S. Patent No. 4,916,109) (Baiker), further in view of "Crystallization of amorphous Zr-Ni alloys in the presence of H<sub>2</sub>, CO, O<sub>2</sub>, N<sub>2</sub> and argon gases", Aoki et al., (Journal of Materials Science, Vol. 21 pages 793-798, 1986) (Aoki).**

Responding to Applicants' previous response, the Examiner alleged as follows:

In the remarks, applicant argues that Baiker's invention is not directed to a hydrogen storage and/or transportation container.

The examiner does not find applicant's argument convincing, because the scope of Baiker includes a powder formed product (col. 2 lines 9-11). Therefore, it would have been well within the skills of one of ordinary skill in the art would have found it obvious to store such a powder form product in a container.

Applicant further argues that Baiker teaches a catalyst not a hydrogen storage alloy material.

The examiner does not find applicant's argument convincing because Aoki teaches that zinc [zirconium] based alloy such as ZnPd [ZrPd] amorphous alloys, same as the material in Baiker, absorbs considerably quantity of hydrogen and also acts as catalyst for hydrogenation of carbon monoxide (introduction), which shows that the material of Baiker is a hydrogen storage alloy material in addition to its function as a catalyst.

The Examiner also alleged as follows:

Applicant further argues that Inventive Example 1 and Comparative Example 1 in the specification show that the hydrogen storage alloy material as claimed is remarkably superior to the Zr<sub>65</sub>Pd<sub>35</sub> disclosed in Baiker.

The examiner does not find applicant's argument convincing because Inventive Example 1 is not commensurate with the scope of the instant

invention. Instant claim 1 recites a group of Zr alloys that can be described by the formula  $\text{Zr}_{100-a-b}\text{Pd}_a\text{Ni}_b$  wherein  $15 \leq a \leq 40$ , and  $2 < b \leq 10$ . However, Inventive Example 1 only represents one of the many Zr alloys that satisfy this formula. Therefore, Inventive Example 1 is not sufficient to show superior results over Baiker for the entire group of claimed Zr alloys.

(Office Action, page 5, lines 6-14). Claim 1 is amended to recite “wherein the Zr alloy has a composition, in atomic %, expressed by the following formula:  $\text{Zr}_{65}\text{Pd}_{30}\text{Ni}_5$ .” Thus, the scope of the claim 1 is commensurate with the disclosure of the specification. The hydrogen storage alloy material as claimed is remarkably superior to the  $\text{Zr}_{65}\text{Pd}_{35}$  disclosed in Baiker. This was not expected from the disclosures of Baiker and Aoki et al.

For at least these reasons, claim 1 patentably distinguishes over Baiker and Aoki et al. Claims 2 and 4, depending from claim 1, also patentably distinguish over Baiker and Aoki et al. for at least the same reasons.

In view of the aforementioned amendments and accompanying remarks, Applicants submit that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,  
**WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP**

/Sadao Kinashi/

Sadao Kinashi  
Attorney for Applicants  
Registration No. 48,075  
Telephone: (202) 822-1100  
Facsimile: (202) 822-1111

SK/kn